

REMARKS

In response to the rejections raised under 35 USC § 112 second paragraph, the claims have been reviewed and clarifying amendments made. Claim 1 has been amended to improve form and to recite a lid and heat seal along with the claimed projection portion at least a portion of which becomes a heat-sealing-face of the heat seal. Support for these amendments is deemed to be found in at least paragraph [0045] of the originally filed specification. Claim 3 has been cancelled thus mooting the issues raised in connection therewith.

Claim 5 has been amended to clarify the text of this claim and to render it clear and distinct. Claim 8 has been revised in a manner which overcomes the later discussed anticipation rejection, however the issue raised in connection with the expression 'so as to project toward the interior of the container', although slightly amended, is deemed to be generic to both of the possibilities mentioned at the top of page 3, and therefore not in need of specific amendment. Claim 11 has been amended to recite a range of force and thus overcome the issue raised in connection therewith. Support for this amendment is found in paragraph [0061] of the originally filed specification.

Inasmuch as withdrawn claim 17 depends from claim 1, claims 17-22 have been reviewed and amended in a manner which renders them suitable for rejoinder pending allowance of the apparatus claims 1-16.

In connection with the anticipation rejection of claims 8, 10 and 11 under 35 USC § 102(b), claim 8 has, as noted above, been revised to recite a structure which is neither found in nor suggested by Fritz et al. That is to say, as amended, claim 8 now calls for a polyester container in which a projecting portion is formed on an upper surface of an opening rim part, and wherein

the projection portion comprises: a heat sealing resin piece formed so as to protrude toward an interior of the container, the heat sealing resin piece being positioned to be substantially appressed against the upper surface of the opening rim part by a cover member having a sealant layer on an inner face thereof, and wherein the resin piece is melted and deformed during heat sealing of the sealant layer to the resin piece.

As will be appreciated, Fritz et al. fails to disclose heat sealing or any structure that would facilitate the same. The position that two portions merely being adjacent one another corresponds to the claimed cover having a sealant layer is submitted as being untenable. It is submitted that a sealant layer of the nature claimed could not exist in such an arrangement.

Indeed, the Fritz et al. container is such that flange 12 of the base 11, and the flange 14 of the lid 13 forms part of the locking structure 16 which can be multiply released and relocked as desired. However, as different from the claimed subject matter, there is no heat seal or the like type of connection material disclosed or suggested for reasons which are deemed to be self-evident in light of the selective relocking possible with the Fritz et al. structure. For at least this reason the anticipation rejection is traversed.

The rejection of claims 1-7, 9 and 12-16 under 35 USC § 103(a) as being obvious in light of what can be gleaned from the disclosure of Fritz et al. taken as a whole, is traversed. There is neither any disclosure relating to heat sealing nor the use of a sealant layer on the lid, in this reference. Accordingly, the claims, as amended, are submitted as setting forth subject matter which is non-obvious in light of the disclosure of Fritz et al. taken as a whole.

Allowance of the claims as amended above consideration of rejoinder of a selected number of the withdrawn method claims is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 11-0219 and please credit any excess fees to such deposit account.

Respectfully submitted,

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